REMARKS

Applicants have received the Final Office Action dated January 26, 2010, in which Examiner rejected claims 1-18 under 35 U.S.C. § 103(a) as being allegedly obvious due to Hind et al. (U.S. Pub. No. 2004/0054695, hereinafter "Hind") in view of Morshed et al. (U.S. Pat. No. 6,721,941, hereinafter "Morshed").

I.   SECTION 103 REJECTIONS

Independent claim 1, as amended, recites, in part, "wherein instrumenting said code comprises adding functionality for detecting when the Java component is invoked by a colored transaction request, the colored transaction request denoting that the colored transaction request is generated by an agent rather than generated by a real user so overhead associated with tracking the execution times is not incurred with respect to transactions generated by real users." However, the cited references fail to teach or suggest the quoted limitation. With regard to claim 3 (now canceled) Examiner cites Hind at figs.3, 5; ¶ 0044 as allegedly teaching the quoted limitation. At the cited location, Hind states

Referring now to FIG. 3 , an exemplary embodiment of virtual machine 66 is shown. As depicted, virtual machine 66 includes Aspect-Oriented enabled class loader (module) 100, injection system/module 102 and log system/module 104. As will be further described below, injection system 102 and log system 104 generally include interfaces for issuing requests and retrieving trace data. Specifically, when a problem with program 76 is suspected (e.g., based on the knowledge base provided in the support system 72 augmentation of the dynamic problem determination work flow executing in the administration system 70), a "define" request is issued via command system 110 of injection system 102 (e.g. by administrator system 70 or some other entity). Typically, the "define" request includes probes and associated instructions 124 that are received by command system 110 for processing. In general, each probe includes one or more probe points that are inserted into methods within one or more product classes 120 , 122 . A typical type of probe point is a print statement that will cause some form of trace data to be printed to log database 64 . **The associated rules indicate into which methods and classes the probes are to be inserted. For example, a rule could indicate that a probe is to be inserted into any class having "ABC" in its name, and has a method that has the string "set" in its name, and takes a parameter of a "widget." Thus the rules associate the probes**

> **with specific classes.** Once the rules and probes have been received, logic system 112 will generate class recognition logic based on the rules. The class recognition logic will aid in identifying classes that have already been loaded but need to have the probes inserted (as will be further described below). In general, the logic is generated by parsing the rules to create a list of patterns that match all of the specific classes that require the probes and converting this into source code that, when compiled, may be executed by class loader 100 .

(emphasis added).

However, using rules to indicate that probes should be inserted into classes based on names and intake of parameters fails to teach or suggest detecting when the component is invoked by a colored transaction request. Colored requests are those that are generated by agents, which are not real users. As such, real users will not be affected by the overhead of metrics collection. Hind does not teach or suggest the use of colored transactions that differentiate real users from agents for metrics collection. Furthermore, no other art of record teaches or suggests the limitations as required by the claims. For at least this reason, independent claims 1, along with dependent claims 2 and 4–18, are allowable over Hind in view of Morshed.

II.   CONCLUSION

In the course of the foregoing discussions, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the cited art which have yet to be raised, but which may be raised in the future.

Applicants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are

hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

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